

Assembly Bill No. 1471

CHAPTER 536

An act to amend Sections 20321 and 20341 of the Public Contract Code, and to amend Sections 130051.11 and 130232 of the Public Utilities Code, relating to procurement.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1471, Eng. Procurement: Los Angeles County Metropolitan Transportation Authority.

The County Transportation Commissions Act provides for the creation of county transportation commissions and authorities in 5 counties, including the Los Angeles County Metropolitan Transportation Authority, with specified powers and duties relative to transportation planning, programming, and operations. Existing law specifies certain procurement procedures applicable to these agencies, with certain procedures applicable solely to the Los Angeles County Metropolitan Transportation Authority.

Existing law generally provides that purchase by the Los Angeles County Metropolitan Transportation Authority or another county transportation commission of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure required exceeds \$25,000, shall be by contract let to the lowest responsible bidder, with certain exceptions. Existing law requires the authority to obtain a minimum of 3 quotations when the expected expenditure exceeds \$2,500 and is not more than \$100,000.

This bill would increase that threshold to \$3,000. The bill would delete a duplicate provision relating to the Los Angeles County Metropolitan Transportation Authority in a provision of the Public Contract Code governing the contracting procedures of the Sacramento Regional Transit District. The bill would delete an unnecessary reference to the authority in a provision of the Public Contract Code governing the contracting procedures of 2 transit development boards in San Diego County.

This bill would also authorize the Los Angeles County Metropolitan Transportation Authority to purchase supplies, equipment, and materials from a public auction sale using the procedures established for all other participants in the auction. The bill would authorize the authority to participate in a cooperative procurement agreement with other public agencies under specified conditions.

The people of the State of California do enact as follows:

SECTION 1. Section 20321 of the Public Contract Code is amended to read:

20321. Contracts for the construction of transit works or transit facilities in excess of five thousand dollars (\$5,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in emergency declared by four-fifths vote of the board of the district.

SEC. 2. Section 20341 of the Public Contract Code is amended to read:

20341. (a) Contracts for construction in excess of fifty thousand dollars (\$50,000) shall be awarded to the lowest responsible bidder submitting a responsive bid after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board. If the expected construction contract exceeds one thousand dollars (\$1,000) and does not exceed fifty thousand dollars (\$50,000), the board shall seek a minimum of three quotations, either written or oral, that permit prices and other terms to be compared, and the board shall award the contract to the bidder who submitted the lowest quotation.

(b) If no bids are received, the project may be performed by a negotiated contract.

SEC. 3. Section 130051.11 of the Public Utilities Code is amended to read:

130051.11. (a) The Los Angeles County Metropolitan Transportation Authority may determine its organizational structure, which may include, but is not limited to, the establishment of departments, divisions, subsidiary units, or similar entities. Any department, division, subsidiary unit, or similar entity established by the authority shall be referred to in this chapter as an “organizational unit.” The authority shall, at a minimum, establish the following organizational units:

(1) A transit construction organizational unit to assume the construction responsibilities for all exclusive public mass transit guideway construction projects in Los Angeles County.

(2) An operating organizational unit with the following responsibilities:

(A) The operating responsibilities of the former Southern California Rapid Transit District on all exclusive public mass transit guideway projects in the County of Los Angeles.

(B) The operation of bus routes operated by the former Southern California Rapid Transit District, and all the duties, obligations, and liabilities of the district relating to those bus routes.

(3) A transportation planning and programming organizational unit with all planning responsibilities previously performed by the former Southern California Rapid Transit District and the former Los Angeles County Transportation Commission.

(b) Nothing in this section shall be construed to require specific bus routes to be operated. The authority or the operating organizational unit may make any adjustment with respect to bus routes, bus services, or both,

which is within the power of the former Los Angeles County Transportation Commission, or the former Southern California Rapid Transit District.

(c) Any obligations of the former Southern California Rapid Transit District arising out of a collective bargaining agreement entered into by the district shall be the exclusive obligations of the Los Angeles County Metropolitan Transportation Authority. It is the intent of the Legislature that the rights or obligations under any collective bargaining agreement in existence on January 1, 1993, not be enlarged or diminished by this section or any other provision of the act which added this section.

(d) No collective bargaining agreement entered into by the former Southern California Rapid Transit District on or after January 1, 1993, shall be effective unless approved by the Los Angeles County Metropolitan Transportation Authority. The authority's approval of an agreement shall cause the agreement to be binding upon the authority.

(e) On and after April 1, 1993, any reference to the former Southern California Rapid Transit District in Article 10 (commencing with Section 30750) of Chapter 5 of Part 3 of Division 10 is deemed to refer to the Los Angeles County Metropolitan Transportation Authority.

(f) The Los Angeles County Metropolitan Transportation Authority may administratively delegate to an organizational unit or to its chief executive officer any powers and duties it deems appropriate. Powers and duties which may be delegated to an organizational unit include, but are not limited to, the following:

- (1) The power of eminent domain.
- (2) Approval of contracts, except the final approval of labor contracts.
- (3) Hearing and resolving bid protests.
- (4) Preparation of supporting documents and findings, and approval of contracts, under Sections 130233, 130234, 130236, and 130237 within guidelines adopted by the board of directors.

(g) The Los Angeles County Metropolitan Transportation Authority shall establish a citizens' advisory council pursuant to subdivision (d) of Section 130105.

SEC. 4. Section 130232 of the Public Utilities Code is amended to read:

130232. (a) Except as provided in subdivision (f), purchase of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure required exceeds twenty-five thousand dollars (\$25,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. The publication shall be made at least 10 days before the date for the receipt of the bids. The commission, at its discretion, may reject any and all bids and readvertise.

(b) Except as provided for in subdivision (f), whenever the expected expenditure required exceeds one thousand dollars (\$1,000), but not twenty-five thousand dollars (\$25,000), the commission shall obtain a minimum of three quotations, either written or oral, that permit prices and terms to be compared.

(c) Where the expenditure required by the bid price is less than fifty thousand dollars (\$50,000), the executive director may act for the commission.

(d) All bids for construction work submitted pursuant to this section shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

- (1) Cash.
- (2) A cashier's check made payable to the commission.
- (3) A certified check made payable to the commission.
- (4) A bidder's bond executed by an admitted surety insurer, made payable to the commission.

(e) Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the commission beyond 60 days from the date that the award was made.

(f) The following provisions apply only to the Los Angeles County Metropolitan Transportation Authority:

(1) The contract shall be let to the lowest responsible bidder or, in the authority's discretion, to the responsible bidder who submitted a proposal that provides the best value to the commission on the basis of the factors identified in the solicitation when the purchase price of all supplies, equipment, and materials exceeds one hundred thousand dollars (\$100,000). "Best value" means the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to requirements described in the solicitation documents. The contract shall be let to the lowest responsible bidder when the purchase price of the construction of all facilities exceeds twenty-five thousand dollars (\$25,000).

(2) The authority shall obtain a minimum of three quotations, either written or oral, that permit prices and terms to be compared whenever the expected expenditure required exceeds three thousand dollars (\$3,000), but not one hundred thousand dollars (\$100,000).

(3) The authority may purchase supplies, equipment, and materials from a public auction sale, including public auctions held via the Internet, using the procedures established for all other participants in the public auction.

(4) The authority may participate in a procurement agreement involving other public entities that is identified by a procuring public entity or entities as a cooperative procuring agreement from which other public entities may make purchases or enter into contracts, and the authority may procure, and enter into contracts for, items purchased pursuant to that procurement agreement, notwithstanding that the authority may not be the procuring public entity, provided the procurement agreement is awarded or entered into by either of the following:

(A) One or more public entities or an organization of public entities, which may include the authority.

(B) A federal, state, or local public entity.

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